IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO: 20082 of 2004

Between:

Aravapalli Ranadhir, s/o Sri Aravapalli Bose,
R/o Door No.2-129, Srinagar, Gannavaram Village, Krishna District.

... PETITIONER

AND

The Vice Chairman, Vijayawada, Guntur, Tenali, Mangalagiri Urban Development Authority, Vijayawada.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ order or direction more particularly a writ in the nature of mandamus declaring the action of the respondents in proposing to demolish the building situated in Door No.1, Ward No.1 of Resurvey Nos.462/1A and 462/1B, Gannavaram Village & Gram Panchayat, Krishna District as violative of Section 14(5) of the A.P.Urban Areas Development Act, 1975 and the principles of natural justice and consequently direct the respondents not to demolish the premises and pass such other suitable order or orders.

Counsel for the Petitioner: MR.VIJAYA KUMAR GORJE

Counsel for the Respondent: MR.P.M.GOPAL RAO

The Court, at the admission stage, made the following:

ORDER:

Petitioner said to have made an application seeking permission for construction of a house on 12-09-2002 and proceeded with the construction under the deemed approval. It is not disputed that the respondent, by the impugned notice dated 23-11-2002 under Sections 42 (1) and 43 (1) of the A.P. Urban Areas Development Act, 1975 (for short 'the Act') called upon the petitioner that he is proceeding with the construction unauthorizedly without obtaining any permission and not to proceed with the same and it is an offence punishable under Section 43 (1) of the Act. Proper remedy for the petitioner is to file an appeal under subsection (3) of Section 42 of the Act against the said notice and he can bring it to the notice of the respondent that he is proceeding with the construction under the deemed provision, but without submitting any explanation to the said notice, it appears that petitioner proceeded with the construction and has come forward with the present writ petition contending that Vijayawada, Guntur, Tenali, Mangalagiri Urban Development Authority in its proceedings dated 05-08-1992 approved the plan in favour of one Smt. Kakarapati Usha Rani with certain conditions after obtaining an undertaking that the structure will be demolished if it falls within the area earmarked for road widening.

2. In view of the same, learned counsel for the petitioner contends that the petitioner is agreeable to give such undertaking, but without approving the plan, the respondent cannot take steps to demolish the structure so made. The submission made by the learned counsel for the petitioner cannot be countenanced for the reason that in the year 1992, the said authority granted permission with certain conditions, but whereas no such approval was made in favour of the petitioner. But, contrary to that, petitioner was called upon not to proceed with the construction without there being any permission. If that were the case, petitioner cannot plead discrimination.

3. In view of the same, petitioner cannot come up with the present writ petition for regularization of the unauthorized construction so made. It is for him to approach the authorities for necessary relief either by filing an appeal or making a representation, if any.

The writ petition is accordingly dismissed. No costs.

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A. **GOPAL REDDY, J**

November 2, 2004

MRR

To:

1. The Vice Chairman, Vijayawada, Guntur, Tenali, Mangalagiri Urban Development Authority, Vijayawada

2. Two C.D. Copies.